IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.142/99

Bhupendra Singh **Versus** State

DATE OF ORDER :: 19/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Rajesh Choudhary for Mr. Biri Singh Sinsinwar, for petitioner
Mr. Arun Sharma, Public Prosecutor for State

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Instant petition has been filed by accused-petitioner assailing the order dated 19th August, 1998 whereby learned trial Judge after matter was finally concluded and listed for dictation of judgment observed that formal charge is to be framed and accusation of charge was explained to the accused-petitioner which was denied by him and requested to face trial hence he directed to summon the witnesses.

The complaint was filed against accused-petitioner u/s.34 of Police Act on 4th May, 1995. Accusation of charge was explained to him on 5th April, 1996 and during trial, the evidence of prosecution was recorded and his statement was also recorded u/s.313 Cr.P.C. Infact, the trial was complete and final judgment was to be pronounced by learned trial Judge. At this stage, learned trial Judge considered appropriate that the charge is formally to be framed in writing and further considered to proceed in recording statements of witnesses.

This Court has gone through the order impugned and finds that once the trial was over and the statements of prosecution witnesses and so also of accused-petitioner were recorded, there was no justification for learned trial Judge to now revert back and frame charge against accused-petitioner which will be a complete re-trial, which in the facts of instant case, is not required and the order passed, in the opinion of this court, is not legally sustainable.

Consequently, the misc. petition stands allowed. The order dated 19th August, 1998 is hereby quashed and set aside. Learned trial Judge is directed to pronounce the judgment on the basis of material which came on record in accordance with law. Copy of this order be sent to learned trial Judge for further necessary action.

[AJAY RASTOGI],J.